

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

-against-

ROBERT J. MUELLER, DEEPROOT FUNDS  
LLC (a/k/a dprt Funds, LLC), AND POLICY  
SERVICES INC.,

Defendants,

-and-

DEEPROOT TECH LLC, DEEPROOT  
PINBALL LLC, DEEPROOT STUDIOS LLC,  
DEEPROOT SPORTS & ENTERTAINMENT  
LLC, DEEPROOT RE 12621 SILICON DR LLC,  
AND ROBERT J. MUELLER, JEFFREY L.  
MUELLER, AND BELINDA G. BREEN, AS CO-  
TRUSTEES OF THE MB HALE OHANA  
REVOCABLE TRUST,

Relief Defendants.

Civil Action No.: 5:21-cv-785-XR

**UNOPPOSED MOTION TO AMEND ORDERS AND FOR PERMISSION**

TO THE HONORABLE COURT:

Defendant Robert J. Mueller (“**Mueller**”) files this Unopposed Motion to Amend Orders and for Permission, as follows:

**I. Permission and Amendment to Preliminary Injunction**

1. On August 20, 2021, Plaintiff Securities and Exchange Commission (the “**SEC**”) filed its Complaint (ECF No. 1).

2. On September 23, 2021, the parties filed a Joint Motion for an Asset Freeze, Accounting, and Preliminary Injunction (ECF No. 6).

3. On September 23, 2021, the Court entered its Order Freezing Assets, Ordering an Accounting, and Preliminary Injunction (ECF 7) (the “**Preliminary Injunction**”). That Preliminary Injunction provides that:

Defendants . . . through the pendency of this lawsuit or until this Court orders otherwise, are enjoined and prohibited from directly or indirectly opening any additional bank, investment, digital asset, trust, loan, or other financial account of any kind, without first seeking permission by filing a motion with this Court on three (3) days’ notice and upon a showing that opening such account is appropriate, and would benefit investors or the administration of this action, or is otherwise necessary and this Court grants such motion.

Preliminary Injunction at 7.

4. On April 13, 2022, Mueller was informed by his bank that it intends to close two checking accounts held in Mueller’s name. Those accounts had been excluded from the asset freeze to permit Mueller to use them to pay for living expenses. *See* Order on Use of Funds at 3 n.1. Mueller submits that access to a checking account is necessary and appropriate for Mueller to pay for his family’s living expenses. Pursuant to the Preliminary Injunction, Mueller therefore seeks the Court’s permission to open a new checking account at another financial institution.

5. To avoid the requirement of returning to the Court if another bank account is closed, Mueller further requests that the Preliminary Injunction be amended to permit Mueller to open a bank account with the consent of the SEC, with the right to seek the Court’s permission if the SEC does not agree. Mueller would be required to provide the bank and account number to the SEC after the account is opened.

## II. Amendment to Order on Use of Funds

6. On November 5, 2021, the Court entered its Order Maintaining Freeze of Certain Assets and Allowing the Use of Limited Funds to Pay for Living Expenses and Criminal Defense Counsel (ECF 23) (the “Order on Use of Funds”). The Order on Use of Funds ordered that:

Defendant Mueller shall be permitted, between the date of this Order and February 13, 2022, to use no more than \$20,000 of MB Hale Ohana Revocable Trust funds in defense counsel’s IOLTA Trust Account to pay for fees and expenses associated with criminal defense representation.

Order on Use of Funds at 4.

7. The parties agree that the intent of the above language, which was submitted to the Court in an agreed proposed order, was to allow Mueller’s counsel to segregate funds before February 13, 2022 for use in Mueller’s criminal defense. The undersigned counsel has segregated such funds in a separate account, consistent with the Order on Use of Funds. Counsel has incurred fees associated with the criminal defense but has not yet used the money authorized by the Order on Use of Funds to pay for such fees.

8. Mueller maintains that the Order on Use of Funds, as currently written, could be read to permit those funds to be used to pay *only* for those fees that are incurred *before* February 13, 2022. In an abundance of caution and consistent with the parties’ intentions, Mueller seeks to modify the Order on Use of Funds to clarify that the funds authorized for use in Mueller’s criminal defense may be used to pay for fees incurred *after* February 13, 2022—with the addition that such funds may only be used through July 15, 2022, the date of the Status Conference regarding the status of the criminal case. Mueller is not currently seeking an increase in the amount of funds that may be used for his criminal defense.

9. The undersigned counsel for Mueller has conferred with counsel for the SEC, who stated that the SEC does not oppose the relief sought through this Motion. Counsel has also

conferred with counsel for Relief Defendants Jeffrey Mueller and Belinda Breen, who also indicated that he is not opposed to the relief sought in this Motion.

Mueller therefore respectfully requests that the Court enter an order: (1) granting Mueller permission to open a new checking account; (2) amending the Preliminary Injunction to permit a bank account to be opened with the permission of the SEC, provided that Mueller provide the SEC with the bank and account number; and (3) amending the Order on Use of Funds to clarify that the funds permitted to be used for Mueller criminal defense by the Order on Use of Funds may be used to pay for legal fees and expenses incurred before July 15, 2022.

Dated: April 18, 2022

Respectfully submitted,

**DAVIS & SANTOS, PLLC**

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***Counsel for Defendant Robert Mueller***

**CERTIFICATE OF CONFERENCE**

I hereby certify that counsel for the undersigned counsel for Mueller conferred with counsel for the SEC and counsel for Jeffrey L. Mueller and Belinda G. Breen, who indicated that they did not oppose the relief sought in this Motion.

/s/ H. Jay Hulings  
H. Jay Hulings

**CERTIFICATE OF SERVICE**

I hereby certify that on April 18, 2022, the foregoing document was served on counsel of record via the Court's ECF system.

/s/ H. Jay Hulings  
H. Jay Hulings